



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 28, 1996

Mr. S. Anthony Safi
Mounce & Galatzan
Seventh Floor
Texas Commerce Bank Building
201 E. Main Drive
El Paso, Texas 79901-1334

OR96-1948

Dear Mr. Safi:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 27057.

The El Paso Independent School District (the "district") received a request for "a videotape of a Texas Education Agency official's report to El Paso school district officials." You assert the requested videotape is excepted from required public disclosure pursuant to section 552.111 of the Government Code. You have submitted the requested videotape to this office for review.

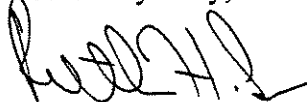
As a threshold issue, we address your contention that the videotape is not subject to the Open Records Act because it is not a "completed report" within the meaning of section 552.022(1) of the Government Code. This argument was considered and rejected in prior decisions of this office. *See* Open Records Decision Nos. 407 (1984) and 140 (1976). In Open Records Decision No. 407 (1984) at 3, this office concluded that a governmental body could not withhold information merely because it had not yet become part of a completed report. Information in the possession of a governmental body is generally available to the public. Gov't Code § 552.002. The requested videotape is information in the possession of a governmental body and is therefore subject to the Open Records Act. It may be withheld from required public disclosure only if it falls within a chapter 552 exception from disclosure.

You claim that section 552.111 of the Government Code excepts the requested videotape from required public disclosure. Section 552.111 excepts from disclosure interagency or intra-agency communications "consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policy making processes of the governmental body." Open Records

Decision No. 615 (1993) at 5. You state that the requested videotape is "the equivalent of an oral draft of a TEA report to be delivered in writing in the future." The videotape is not a "draft" document. See Open Records Decision No. 559 (1990)(section 552.111 protects drafts of documents that will be released in final form). We also note that you informed this office that the district has already released a transcript of the videotape to the public. It thus appears the information on the videotape has already been disclosed. See Gov't Code § 552.007(b)(information released to public may not be selectively disclosed. Thus, the videotape is not excepted from disclosure under section 552.111.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the fact presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/MAR/SAB/ch

Ref.: ID#27057

Enclosures: Submitted videotape

cc.: Mr. Sonny Lopez
Reporter
El Paso Herald Post
El Paso, Texas 79999
(w/o enclosures)